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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/099,610	03/15/2002	Robert L. de Jong	2212-1 (FJ-00-1-1)	7238

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EXAMINER

ALVO, MARC S

ART UNIT PAPER NUMBER

1731

DATE MAILED: 05/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.	Applicant(s)	
10/099,849 <u>610</u>	JONG ET AL	
Examiner	Art Unit	
Steve Alvo	1731	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 March 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-37 is/are pending in the application.
- 4a) Of the above claim(s) 1-19 and 30-37 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 20-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

The restriction requirement is repeated and made Final. Applicant has not given any reasons as to why the restriction is improper and thus the election was made without traverse.

The non-elected claims should be cancelled.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 20 and 22-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over VIKIO et al.

VIKIO teaches processing paper fibers with a multistage array of forward cleaners configured to generate accept streams (14) and reject streams (15) which concentrates hydrophobic contaminants (e.g. stickies, see column 4, lines 55-58 or ink) feeding an aqueous feed stream including papermaking fibers to a first bank of centrifugal cleaners (vortex cleaners I and II); generating a first accepts stream (14_i or 14_{ii}) and a first rejects aqueous stream (20_i or 20_{ii}) enriched in heavy hydrophobic contaminants, e.g. e.g. stickies, see column 4, lines 55-58; supplying a first rejects stream (20_i or 20_{ii}) to a flotation stage (Figure 1, 50) or (Figure 2, 54); removing the rejects stream from the flotation stage to remove hydrophobic waste and produce an intermediate purified aqueous stream (Figure 2, 49 from flotation stage 54); feeding the purified stream 49 (column, 33-36) can be fed back to system 10 to the feed stream after the first bank of centrifugal cleaners (I, II) and prior to the second bank of centrifugal cleaners (III, IV). VIKIO et al teaches that the accept fractions are recycled to the preceding stages and the cleaned

slurry discharged through conduit 12 to a paper machine (column 4, lines 46-48). The accept portion (14_n) is shown to combine with accept portion (14_i). It would have been obvious to the routineer to combine any of the accept portions with any other accept portion and sending the combined accept fibers to the paper machine as all the accept portions contain papermaking fibers. See column 4, lines 35-39 for consistency of 0.5 to 4.5%; see vortex cleaners V and VI and/or Figure 2, (61) for third bank of centrifugal cleaners.

Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over VIKIO (5,882,475) as applied to claim 20 above, and further in view of MAXHAM (4,983,258) or MARKHAM et al (5,234,543).

MAXHAM (71) or MARKHAM et al (Figure 2, (40) teach thickening pulp after fiber cleaning and recycling and prior to being formed into paper. It would have been obvious to thicken the cleaned pulp of VIKIO et al in the manner taught by MAXHAM or MARKHAM et al prior to sending the pulp to the paper making machine. It is well known that paper is made from pulp slurries that are added to the paper machine at certain consistencies. It would have been obvious to the artisan to use the dewater of MAXHAM or MARKHAM et al to bring the pulp to the proper consistency for use in the paper machine of VIKIO et al.

In the Parent Application Applicant, now U.S Patent 6,416,622, Applicant elected the method claims over the apparatus. The allowed claims of 6,416,622 are drawn to the same invention elected in the instant case, e.g. a method of processing papermaking fibers in a multistage array of cleaners. Accordingly the following obvious-type double patenting rejection is made:

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 20-29 are rejected under the judicially created doctrine of double patenting over claims 1-18 of U. S. Patent No. 6,416,622 since the claims, if allowed, would improperly extend the "right to exclude" already granted in the patent.

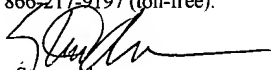
The subject matter claimed in the instant application is fully disclosed in the patent and is covered by the patent since the patent and the application are claiming common subject matter, as follows: The instant claims only differ in scope over those of the Patent and would have been obvious over those of the Patent.

Furthermore, there is no apparent reason why applicant was prevented from presenting claims corresponding to those of the instant application during prosecution of the application which matured into a patent. See *In re Schneller*, 397 F.2d 350, 158 USPQ 210 (CCPA 1968). See also MPEP § 804.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steve Alvo whose telephone number is 571-272-1185. The examiner can normally be reached on 5:45 AM - 2:15 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven Griffin can be reached on 571-272-1189. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Steve Alvo
Primary Examiner
Art Unit 1731

msa